

REMARKS

The Official Action mailed 1 October 2002, has been received and its contents carefully noted. Claims 37-69 were rejected. By this amendment, claim 37 has been amended to make clear that the recited elements are in "one apparatus". Support may be found in the specification, figures, and claims as originally filed. No statutory new matter has been added. Entry of the amendment and reconsideration in view of the following remarks is respectfully requested.

Rejection under 35 U.S.C. 102(e)

The Examiner rejected claims 37-52, 54-56, 62-64, 66, and 69 under 35 U.S.C. 102(e), as being anticipated by Chan et al. (U.S. Patent No. 6,275,726). Specifically, the Examiner deemed that Chan et al. disclose "means for bypassing the surface permeability barrier of tissue, means for delivering a clarifying agent, and means of light delivery for diagnostic and therapeutic applications".

Applicant respectfully submits that Chan does not teach or disclose each and every limitation of the present invention as claimed. The claims of the present invention encompass an apparatus having means for bypassing a surface permeability barrier, a means for delivery of a clarifying agent past the surface permeability barrier, and a means for delivering light or collecting light. Nowhere does Chan teach or disclose one apparatus having all three means as presently claimed. Therefore, the rejection under 35 U.S.C. 102(e) should properly be withdrawn.

Rejection under 35 U.S.C. 103(a)

Claims 53, 57-59, 61, 65, and 67 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chan and in view of Edwards (U.S. Patent No. 5,833,647). Specifically, the Examiner deemed that Edwards inherently teaches means for sonophoresis, electroporation, temperature gradient, and iontophoresis.

Applicants respectfully submit that nowhere does Chan teach or suggest a single apparatus having means for bypassing a surface permeability barrier, a means for delivery of a clarifying agent past the surface permeability barrier, and a means for delivering light or collecting light. The combined disclosures of Chan and Edwards do not alleviate this deficiency.

Therefore, it would not be obvious for one of ordinary skill in the art to use an apparatus having means for bypassing a surface permeability barrier, a means for delivery of a clarifying agent past the surface permeability barrier, and a means for delivering light or collecting light to deliver a clarifying agent past a surface permeability barrier by sonophoresis, electroporation, temperature gradient, and iontophoresis as disclosed in Edwards. Thus, the rejection of claims 53, 57-59, 61, 65, and 67 under 35 U.S.C. 103(a) should properly be withdrawn.

Claims 60 and 68 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chan and in view of Weaver et al. (U.S. Patent No. 5,019,034). Specifically, the Examiner deemed that an apparatus having a means for optical pressure to deliver the clarifying agent according to the present invention would have been obvious to one of ordinary skill in the art.

Applicants respectfully submit that nowhere does Chan teach or suggest a single apparatus having means for bypassing a surface permeability barrier, a means for delivery of a clarifying agent past the surface permeability barrier, and a means for delivering light or collecting light. The combined disclosures of Chan and Weaver do not alleviate this deficiency. Therefore, it would not be obvious for one of ordinary skill in the art to use an apparatus having means for bypassing a surface permeability barrier, a means for delivery of a clarifying agent past the surface permeability barrier, and a means for delivering light or collecting light to deliver a clarifying agent past a surface permeability barrier by optical pressure as disclosed in Weaver. Thus, the rejection of claims 60 and 68 under 35 U.S.C. 103(a) should properly be withdrawn.

Request for an Interview

Should there be any remaining issues after entry of the amendment and consideration of the remarks herein, Applicants respectfully request either an in-person interview or a telephonic interview with the Examiner.

Extension of Time

A Petition for an Extension of Time for two months under 37 C.F.R. §1.136 and the appropriate fee has been filed to extend the due date for responding to the Official Action to 1 March 2003.

CONCLUSION

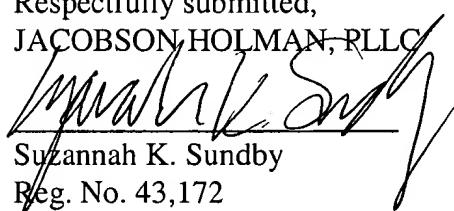
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. **06-1358**, referencing Attorney Docket No.

P66960US2.

Attached hereto is a marked-up version of the changes made by the present amendment entitled "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Please amend claim 37 as follows:

37. (Amended) Apparatus for enhancing the optical transparency of biological tissue covered by a surface permeability barrier of tissue[, said apparatus comprising] which comprises in one apparatus:

- a) means for bypassing said surface permeability barrier of tissue to permit the delivery of a clarifying agent past said surface permeability barrier of tissue to said covered biological tissue,
- b) means for delivering said clarifying agent past said surface permeability barrier of tissue to said covered biological tissue to enhance optical transparency thereof,
- c) means for delivery of light to, and/or collection of light from said covered biological tissue for diagnostic or therapeutic applications.